

Message Text

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46

ACTION EUR-12

INFO OCT-01 ISO-00 COA-01 DLOS-03 OES-03 IO-10 ACDA-05

AEC-05 CG-00 DOTE-00 INT-05 COME-00 AGR-05 EB-07

SAM-01 SAJ-01 CIAE-00 DODE-00 PM-03 H-01 INR-07 L-02

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

FEAE-00 /102 W

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R 131320Z FEB 75

FM AMEMBASSY THE HAGUE

TO SECSTATE WASHDC 5230

INFO AMEMBASSY ANKARA

AMEMBASSY ATHENS

AMEMBASSY BONN

AMEMBASSY COPENHAGEN

AMEMBASSY HELSINKI

AMEMBASSY LISBON

AMEMBASSY LONDON

AMEMBASSY MOSCOW

USMISSION NATO

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY RYEKJAVIK

AMEMBASSY ROME

AMEMBASSY STOCKHOLM

C O N F I D E N T I A L THE HAGUE 0737

E.O. 11652: GDS

TAGS: PFOR, NO, UR, SV, NL

SUBJECT: SVALBARD CONTINENTAL SHELF AND DELIMITATION OF BARENTS

SEA

REF: OSLO 0590

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1. FOLLOWING RECEIPT REFTEL, EMBASSY DISCUSSED INTERPRE-

TATION OF 1920 SPITZBERGEN TREATY AS IT CONCERNS RIGHT OF EXPLOITATION ON THE CONTINENTAL SHELF WITH MFA LEGAL ADVISOR RIPHAGEN.

2. RIPHAGEN OBSERVED THAT SINCE SEVERAL GOVERNMENTS HAD MADE THEIR VIEWS KNOWN REGARDING THE TREATY, GON WHICH IS ALSO A SIGNATORY FELT IT LIKEWISE SHOULD EXPRESS ITS VIEW WHICH IT DID IN COURSE RECENT GON-NORWEGIAN CONSULTATIONS.

3. RIPHAGEN SAID THERE ARE THREE POSSIBLE INTERPRETATIONS OF THE TREATY. ONE IS THE NORWEGIAN POSITION THAT THE TREATY GAVE RIGHTS TO OTHER PARTIES AND THOSE RIGHTS SHOULD BE INTERPRETED RESTRICTIVELY. ANOTHER IS THE POSITION TAKEN BY CERTAIN OTHER COUNTRIES THAT THE TREATY GAVE RIGHTS TO NORWAY AND THOSE RIGHTS SHOULD BE INTERPRETED RESTRICTIVELY. A THIRD POSITION, TAKEN BY DUTCH, IS THAT THE TREATY RECOGNIZED SPITZBERGEN AS BEING UNDER NORWEGIAN SOVEREIGNTY BUT NOT A PART OF NORWAY, AND THAT THE REGIME OF SPITZBERGEN SHOULD APPLY TO ITS CONTINENTAL SHELF. ACCORDING TO MEDIAN LINE PRINCIPLE, THAT SHELF EXTENDS HALFWAY TO NORWEGIAN COAST. THIS INTERPRETATION THUS DRAWS DISTINCTION BETWEEN CONTINENTAL SHELF OF SPITZBERGEN AND CONTINENTAL SHELF OF NORWAY. UNDER IT, SIGNATORIES TO TREATY WOULD BE ALLOWED TO EXPLOIT CONTINENTAL SHELF OF SPITZBERGEN REGIME.

4. RIPHAGEN EMPHASIZED THAT DUTCH POSITION IS ONLY A LEGAL OR THEORETICAL STANCE, SINCE NO COUNTRY AT THIS JUNCTURE IS ATTEMPTING TO EXPLOIT THE AREA INVOLVED. HE DID NOT KNOW IF THERE ARE OTHER NATIONS WHO SHARE DUTCH INTERPRETATION.

5. AS FOR POSSIBLE INTERPRETATION OF TREATY BY ICJ, RIPHAGEN NOTED THAT TREATY CONTAINS NO CLAUSE COVERING ITS REFERRAL TO THE COURT AND SAID IT WAS NOT CLEAR HOW ANY DISPUTE REGARDING THE TREATY MIGHT BE HANDLED. GOULD

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